against intentional disturbance when the disturbance, in the eyes of the law, is for a purpose which public policy does not sanction. The law's traditional bias in favor of competition has led the courts to accord traders and manufacturers complete competitive license, and injury sustained from such competition is not actionable merely because it was intentionally inflicted. *Mogul Steamship Co.* v. *McGregor*, [1892] A. C. 25. But see TRADE COMMISSION ACT, FED. STAT. ANN., SUPP. 1915 60, 62. As to workingmen, a group of jurisdictions of which Massachusetts is the leader have conceived that public policy calls for a different view. Workingmen may strike to obtain better wages or working conditions from their own employers. *Minasian* v. *Osborne*, 210 Mass. 250, 96 N. E. 1036. See *L. D. Willcutt & Sons Co.* v. *Driscoll*, 200 Mass. 110, 113, 85 N. E. 897, 899. They may strike to get work away from other workingmen. *Pickett* v. *Walsh*, 192 Mass. 572, 78 N. E. 753. But they may not strike to strengthen the union in its struggle with employers. *Folsom* v. *Lewis*, 208 Mass. 336, 94 N. E. 316. The competitive self-interest which justifies coercive trade-union activity must, it is said, be an immediate, individual self-interest. *Berry* v. *Donovan*, 188 Mass. 353, 74 N. E. 603. The broader self-interest of which the union is a manifestation is considered too remote. And the social interest in trade unionism is disregarded. The principal case is therefore not an innovation. *Lucke* v. *Clothing Cutters & Trimmers Assembly*, 77 Md. 396, 26 Atl. 505; *Erdman* v. *Mitchell*, 207 Pa. St. 79, 56 Atl. 327. *Contra*, *National Protective Ass'n* v. *Cumming*, 170 N. Y. 315, 63 N. E. 389; *Kemp* v. *Division No. 241*, 255 Ill. 213, 99 N. E. 389. Yet the shift of emphasis in modern jurisprudence from individual to social interests has gone far toward shaking the foundation on which the Massachusetts cases rest. See 14 HARV. L. REV. 219; 26 HARV. L. REV. 259. And see dissenting opinions by Mr. Justice Holmes in *Plant* v. *Woods*, 176 Mass. 492, 504, 57 N. E. 1011, 1015, and in *Coppage* v. *Kansas*, 236 U. S. 1, 27.

TORTS — UNUSUAL CASES OF TORT LIABILITY — SUIT BY WIFE FOR CAUSING IMPRISONMENT OF HUSBAND. — The defendant, in order to satisfy his dislike of the plaintiff's husband, encouraged him to commit adultery, and then procured his arrest and conviction. The plaintiff sues for loss of her husband's society and support caused by the imprisonment. *Held*, that she cannot recover. *Nieberg* v. *Cohen*, 92 Atl. 214 (Vt.).

For a discussion of this case, see NOTES, p. 511.

TRUSTS — *CESTUI'S* INTEREST IN THE *RES* — NATURE OF *CESTUI'S* INTEREST. The trustee and *cestui que trust* of a certain trust fund were citizens of New York. The *cestui* assigned his interest to the plaintiff, a citizen of Pennsylvania, who brought suit against the trustee in a federal District Court. Section 24 of the federal Judicial Code provides that the District Courts shall not have jurisdiction of "any suit to recover upon any promissory note *or other chose in action* in favor of any assignee . . . unless such suit might have been prosecuted in such court . . . if no assignment had been made." The District Court dismissed the bill for want of jurisdiction. *Held*, that the decree be reversed, partly on the ground that the *cestui's* right under a trust was a property right and not a "*chose in action*" within § 24. *Brown* v. *Fletcher*, 235 U. S. 589, 35 Sup. Ct. 154.

For a discussion of the nature of the *cestui's* interest in the trust *res*, see NOTES, p. 507.

TRUSTS — CREATION AND VALIDITY — DIRECTION TO TRUSTEE TO EMPLOY A PARTICULAR PERSON AS ATTORNEY IN ADMINISTERING THE TRUST. — A testator directed in his will that the executors of his estate should employ

his son as attorney for the estate at a fixed yearly salary. The executors refused to comply with the direction. The son brings this action to compel the executors to employ him. *Held*, that he cannot enforce the direction. *In re Wallach*, 150 N. Y. Supp. 302 (App. Div.).

Whether the power of employment or the property of the estate to an extent sufficient for compensation be regarded as the *res*, there is apparently no inherent reason why a valid trust cannot be created by a definite and mandatory direction to executors or trustees to employ a designated person in services for the estate. Such directions have been held binding in a few instances, in regard to other than legal services. *Hibbert* v. *Hibbert*, 3 Meriv. 681; *Williams* v. *Corbet*, 8 Sim. 349. In many cases, however, the recommendations have been construed as merely precatory, because of the weakness of the words, the indefiniteness of the direction, or a supposed inconsistency with the gift of the beneficial interest in the property or the administration of the estate. *Shaw* v. *Lawless*, 5 Cl. & F. 129; *Finden* v. *Stephens*, 2 Phil. 142; *Foster* v. *Elsley*, 19 Ch. D. 518; *Jewell* v. *Barnes' Adm'r*, 110 Ky. 329, 61 S. W. 360. Where the direction is to employ as attorney, the American cases usually hold that such restrictions are contrary to the policy of the law. *Young* v. *Alexander*, 16 Lea (Tenn.) 108; *In re Ogier's Estate*, 101 Cal. 381, 35 Pac. 900; *In re Pickett's Will*, 49 Ore. 127, 89 Pac. 377; *In re Caldwell*, 188 N. Y. 115, 80 N. E. 663. The necessity for coöperation between trustee and attorney in their confidential relation appears to afford basis for this conclusion.

WITNESSES — IMPEACHMENT — PARTY'S OWN WITNESS: BY PRIOR CONTRADICTORY STATEMENTS. — In a trial for fornication, the prosecutrix, as a witness for the state, denied the commission of the act. The prosecuting attorney declared that he was not surprised. Prior statements of the prosecutrix were then offered to impeach her testimony. *Held*, that the evidence is inadmissible. *State* v. *MacRorie*, 92 Atl. 578 (N. J. Sup. Ct.).

In a murder trial, witnesses for the people, to the surprise of the prosecution, testified that they could not identify defendant as the one who fired the shots. Evidence of their previous identification of the defendant was then offered. *Held*, that the evidence is inadmissible. *People* v. *De Martini*, 213 N. Y. 203.

The common law universally forbids impeachment of a party's own witness by character evidence. *Southern Bell Telephone, etc. Co.* v. *Mayo*, 134 Ala. 641, 33 So. 16. See 2 WIGMORE, EVIDENCE, § 900. But independent contradictory evidence indirectly discrediting the witness has generally been admitted. *Pacific Mutual Life Ins. Co.* v. *Van Fleet*, 47 Colo. 401, 107 Pac. 1087; *United States Brewing Co.* v. *Ruddy*, 203 Ill. 306, 67 N. E. 799. The chief difficulty has arisen in regard to the admission of the witness's prior contradictory statements, as in the two principal cases. Such statements have generally been excluded. *Wheeler* v. *Thomas*, 67 Conn. 577, 35 Atl. 499; *Coulter* v. *American Merchants', etc. Express Co.*, 56 N. Y. 585. The objections usually made are that a party guarantees his witness's credibility and that there will be danger of coercion by threats of impeachment. See *Whitaker* v. *Salisbury*, 15 Pick. (Mass.) 534, 545; *People* v. *Safford*, 5 Denio (N. Y.) 112, 118. See also BULLER, NISI PRIUS, 7 ed., 297 *a*. The former ground has frequently been shown illogical and untrue and the latter is of no cogency. See 11 AM. L. REV. 261; 2 WIGMORE, EVIDENCE, §§ 898–899. The result, moreover, is often unfair, and in some states relief has been sought by statutes which make the witness's prior statements admissible where the party has been entrapped or surprised. GA. CODE, 1911, § 5879. Since no firmly fixed legal precedents would be violated, and reason and justice would be better served, this result should properly be reached even at common law, as the New Jersey case suggests. *Hurlburt* v. *Bellows*, 50 N. H. 105; *Beier* v. *St. Louis Transit Co.*, 197 Mo. 215, 233, 94